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Montana Legal Services Association



A statewide law firm providing, protecting and enhancing access to justice

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MLSA Annual Meeting



MLSA employees and board members from around the state gathered in Helena September 20-22 for the 2010 annual meeting, which focused on technology. Executive Director Klaus Sitte presented the State of the Program, in which he affirmatively answered a question borrowed from a song in an

Apple marketing campaign, "Does You Inspire You?" IV Ashton from PS Technologies, Inc., presented an extensive demonstration of LegalServer, the new case management system MLSA plans to adopt this November. Montana Supreme Court Chief Justice Mike McGrath spoke at the banquet, and attendees enjoyed a humorous video about MLSA staff members' use of technology. Various staff received awards based on MLSA's core values, and Intake Specialist Naomi Hollowell received the Tina Smith Award this year for embodying a spirit of client service and advocacy.

On the second day, Advocacy Coordinator Michelle Hauer anchored a "reporting team" in an interactive discussion of program updates focusing on how MLSA uses technology to change the world. Ed Marks, Litigation Director of Legal Aid of Western Ohio, then gave a presentation entitled "Innovative Advocacy in a Do Anything With Anyone From Anywhere World." Former MLSA employee Kate Bladow joined IT Support Specialist Dave Dancich and Program Administrator Tracie Poindexter in discussing how to get more out of MLSA's existing technology, and Bladow also presented individually on the topic of keeping client information safe.

The second day ended with a breakout session in which staff either learned from Marks about using technology in litigation or from Bladow and Poindexter about MicroSoft 2007. The third and final day of the annual meeting consisted of breakout training sessions on the topics of employment law and fair credit reporting. MLSA staff enjoyed the opportunity to reconnect in person with colleagues, and to learn more about continuing our efforts to use technology in serving our clients.

AmeriCorps Legal Fellow Attorneys



Left to Right: Jillian Haynal, Jessie Lundberg, Bernadette O'Donnell

The Montana Legal Services Association (MLSA) enthusiastically welcomes three new Equal Justice Works AmeriCorps Legal Fellow attorneys. Funded in part by the Corporation of National and Community Service, the Equal Justice Works AmeriCorps program places attorneys across the country to facilitate pro bono opportunities and expand legal resources in low-income and underserved communities.

Bernadette O'Donnell serves with MLSA's Indian Law Unit in the Billings office. Originally

from Westbrook, Maine, Bernadette received her undergraduate degree in sociology at the University of Maine, and is a recent graduate of the City University of New York School of Law in Queens, New York. Before law school, she served with a different AmeriCorps program in Tacoma, Washington and also taught English in China through the WorldTeach program. At MLSA, Bernadette develops materials for self-represented litigants on Montana's Indian reservations, recruits law students and pro bono attorneys to work on Indian law issues, and provides direct services to clients in the areas of estate planning, consumer law, and housing law. "I look forward to spending my free time exploring Big Sky Country," said Bernadette.

Jessie Lundberg serves with MLSA's Consumer Law Unit in the Missoula office. Originally from Missoula, Jessie received her undergraduate degree in social work and her law degree at the University of Montana. Before law school, Jessie was a foreclosure prevention specialist and financial educator at homeWORD, a housing non-profit in Missoula. During law school, she was a Steiger Fellow with the Consumer Protection Bureau of the Montana Attorney General's Office, and also drafted consumer law forms for MLSA's Self-Help Law Unit. After law school, Jessie clerked for the Ninth Circuit Court of Appeals for Judge James R. Browning and Judge Sidney R. Thomas. She also practiced for one year with Bohyer, Simpson & Tranel, P.C., in Missoula. Jessie's primary role at MLSA is coordinating quarterly statewide clinics for people filing bankruptcy petitions. Jessie said she is "a founding board member, coach, and skater for the Hellgate Rollergirls, Missoula's flat-track roller derby league."

Jillian Haynal serves with MLSA's Self-Help Law Unit. Originally from College Place, Washington, Jillian received an undergraduate degree in Spanish from Walla Walla College. She studied epidemiology and completed her Master of Public Health degree and a certificate in Chinese Studies at Loma Linda University in California. She then worked as a Spanish teacher, food safety instructor, and LSAT teacher. Jillian graduated from law school at New York University in 2009. As part of MLSA's Self-Help Law Unit, Jillian helps develop resources for self-represented litigants and assists litigants in preparing and filing their own court papers. Jillian says "I am delighted to be back in the West, closer to family, old friends, and the new friends I hope to make."

Judges win Equal Justice Award

MLSA congratulates Judges Katherine Curtis and Michele Snowberger on winning the 2010 Karla M. Gray Equal Justice Award, which was presented at the annual meeting of the State Bar of Montana. The award honors a judge who has demonstrated dedication to improving access to Montana courts. Judge Curtis, who presides over the Eleventh Judicial District

Court, Flathead County, has played a key role in developing and working to resurrect a pro bono attorney program in northwest Montana, and in establishing a CASA (Court Appointed Special Advocates) program in Flathead County. Judge Snowberger, who presides over the Belgrade City Court, is a very active member of the Montana Supreme Court Commission on Self-Represented Litigants, and has created many resources and presentations on issues relating to access to justice. MLSA appreciates the significant efforts of these judges and others who continue to work to expand access to justice in Montana.

MLSA Attorney Ed Higgins Helps With Stepparent Adoption

About a year ago a call came in to the MLSA Helpline. The caller was a woman who had become pregnant through artificial insemination. She wanted to know if her female partner could adopt the baby she was carrying. Montana law does not allow gay marriage or civil unions, and it is not possible for two unrelated, unmarried people to adopt a child together. But MLSA attorney Ed Higgins discovered that Montana law allows the unmarried partner of a custodial parent to adopt as a stepparent if the unmarried partner can make a showing of good cause. Stepparent adoptions are very simple if both biological parents consent. In this case, the sperm donor's identity was known, and he consented to the adoption. All that was left was to make a showing of good cause and a very cute baby would legally have two mothers. Ed helped make that showing in court, and the court legally created a two-parent family for the baby. The new mother cried tears of joy and gave Ed a big hug. The judge told the new mother "Now I want you to know that you had very good representation in this case. Your attorney did everything correctly to make the case work." MLSA congratulates the new family, and is happy that Ed could help them.

Montana Supreme Court Criticizes Bank, But Rules Against MLSA Client

In *Bank of America v. Ivey*, 2010 MT 131, MLSA Litigation Director Mike Eakin and former MLSA consumer law attorney Chuck Munson argued that a checking account containing a client's \$300 economic stimulus payment should be exempt from execution. Section 25-13-501, MCA, says a creditor can take money and property "not exempt by law" to satisfy a debt. Section 25-13-609(1), MCA, lists money and property that are exempt. MLSA argued that the account with the \$300 economic stimulus payment should be considered a "household good" exempt up to \$600 under § 25-13-609(1), MCA, because the client used her checking account only to purchase household goods.

The Court stated that Bank of America had "brazenly" argued that the stimulus payment was a "windfall" because, earlier in the case, Bank of America was ordered to return the client's illegally seized exempt social security income from the same account. In fact, the bank had seized the entire account, leaving the client with a negative balance including overdraft charges. The Court characterized the bank's remarks as "contemptuous" and said they "suggest total indifference to [the MLSA client's] predicament after the seizure." The Court acknowledged MLSA's argument that the bank received billions of dollars in federal bailout money the same year it seized the \$300 economic stimulus payment. The Court further stated that the bank "evidently fails to appreciate that

exemption laws were indeed designed to shield the poor, not to strip them."

Ultimately, though, the Court stated that the problem with MLSA's argument "is not necessarily that it lacks merit or is 'inapposite,' but that it is being made to the wrong branch of government." Acknowledging that exemption statutes are to be liberally construed, the Court was "not persuaded that that the Legislature intended the term 'goods' to encompass 'moneys' that are contained in a 'household checking account.'" The Court further stated that policy arguments supporting such a construction "need to be made to the Legislature[.]"

Of course, MLSA would have preferred a better result for our client. MLSA is encouraged, however, by the Court's sensitivity to her predicament.



MLSA is Montana's statewide law firm providing civil legal services to clients living in poverty in Montana and on Montana's Indian reservations.

MLSA's HelpLine serves as the entry point to information, advice and referral. MLSA's specialty units include SelfHelp Law, Domestic Violence Law, Consumer Law, Native American Law, Migrant Farmworker Law, Housing Law, Public Benefits and Employment Law. MLSA is committed to making "justice for all" a reality in Montana.

Want to learn more? See our websites at www.mtlsa.org and www.montanalawhelp.org.

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